

RECEIVED  
CENTRAL FAX CENTER

AUG 21 2006

**REMARKS**

Applicants would like to thank the Examiner for careful consideration of the pending Application and the allowance of Claims 12-14, 17 and 18. Applicants would also like to thank the Examiner for the courteous telephone conversation of July 18, 2006. Claims 9, 11-14, and 17-18 are pending in this application. Claims 1-8, 10, 15, 16, and 19-38 have been cancelled. Claims 9, 11, 14, 17 and 18 have been amended. Support for all amendments can be found in the Specification and Claims as originally filed. No new matter has been added.

**Objection to the Specification**

The Examiner has objected to the Specification because the Application number is not present on the first page of the Specification.

Pursuant to the telephone conversation of July 18, 2006, Applicants respectfully request that the Examiner add the Application number to the first page of Specification upon issuance of the pending Application thereby obviating the Examiner's objection.

**Rejections under 35 USC 112**

Claim 7 stands rejected under 35 USC 112, second paragraph. Claim 7 has been cancelled thereby rendering the Examiner's rejections moot.

**Rejections under 35 USC 103**

Claims 1, 3, and 4-8 stand rejected under 35 USC 103(a) as being unpatentable over US Patent No. 5,510,470 to Casalnuovo et al (hereinafter "Casalnuovo"). Claims 1, 3, and 4-8 have been cancelled thereby rendering the Examiner's rejections moot.

Claims 1, 3, 4-8 stand rejected under 35 USC 103(a) as being unpatentable over U.S. Patent No. 5,990,320 to Helmchen et al (hereinafter "Helmchen") in view of Casalnuovo. Claims 1, 3, and 4-8 have been cancelled thereby rendering the Examiner's rejections moot.

Double Patenting Rejections

Claim 9 stands provisionally rejected on the ground of nonstatutory obviousness-type double patenting over Claims 1 and 7 (formulae Ia, Ic and Id) of copending Application No. 10/660,150. Claim 15 stands provisionally rejected on the ground of nonstatutory obviousness-type double patenting over Claims 1 and 7 (formula Ib) of copending Application No. 10/660,150, and Claim 11 stands provisionally rejected on the ground of nonstatutory obviousness-type double patenting over Claim 9 of copending Application No. 10/660,150.

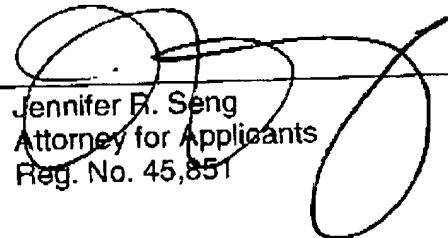
Applicants submit that the present application and 10/660,150 are both pending. Allowable subject matter, notwithstanding the provisional obviousness-type double patenting rejection, has not been indicated in either of the pending applications, and any action by Applicants or the Examiner with regard to a provisional obviousness-type double patenting rejection is deemed premature. Therefore, while the Applicants respectfully traverse this ground of rejection, a terminal disclaimer is concurrently filed herewith.

Claims 1, 2, 4, 5, 7, and 8 stand provisionally rejected on the grounds of nonstatutory obviousness-type double patenting over Claims 1-3 and 5 of copending Application No. 10/660,150 in view of Casalnuovo or Helmchen. Claims 1, 2, 4, 5, 7, and 8 have been cancelled thereby rendering the Examiner's rejections moot.

It is believed that the pending claims are now in condition for allowance and notice to such effect is respectfully requested. Should the Examiner have any questions regarding this application, the Examiner is invited to initiate a telephone conference with the undersigned.

Respectfully submitted,

By



Jennifer R. Seng  
Attorney for Applicants  
Reg. No. 45,851

LANXESS Corporation  
Law & Intellectual Property Department  
111 RIDC Park West Drive  
Pittsburgh, Pennsylvania 15275-1112  
(412) 809-2233  
FACSIMILE PHONE NUMBER:  
(412) 809-1054

\\sr\S:\Law Shared\SHARED\URS\PATENTS\7904\7904 Response 8-21-06.doc

**beglaubigte  
Abschrift****TRANSFER AGREEMENT**

between

Bayer AG, Leverkusen, Germany, herein "BAG",

Bayer Material Science AG, Leverkusen, Germany, herein "BMS",

Bayer Chemicals AG, Leverkusen, Germany, herein "BCH",

and

Lanxess Deutschland GmbH, Leverkusen, Germany, herein "LANXESS"

hereinafter jointly referred to as the „Parties“.

**Preamble**

WHEREAS, BAG combined its BCH chemicals business and part of its BMS material science business into a separate legal group called Lanxess;

WHEREAS, the Lanxess Group was split-off from the Bayer Group and went public on January 31, 2005;

WHEREAS, pursuant to Annex C.2.3.1 of C-Agreement / Transfer Agreement for Intellectual Property Rights between BAG, BMS, BCH and LANXESS (in the German original: *Anlage C.2.3.1 zur C-Vereinbarung / Überleitungsvereinbarung für Gewerbliche Schutzrechte*) dated 10 September 2004, LANXESS has the right to demand the transfer and registration in its name of certain patents from BAG;

WHEREAS, the patents which LANXESS can demand to be transferred and registered in its name are set forth in certain Annexes;

WHEREAS, a certain number of patents which LANXESS can demand to be transferred and registered in its name were filed in the name of BMS and/or BCH; and

NOW, THEREFORE, the Parties hereto agree as follows:

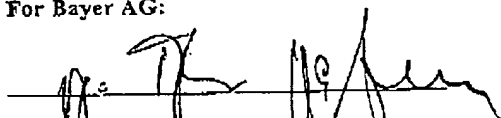
1. Pursuant to § 1.1 of the *Überleitungsvereinbarung für Gewerbliche Schutzrechte* (Annex C.2.3.1 of the Agreement of 10 September 2004), BAG hereby transfers, effective as of January 31, 2005, all its rights in the patents and patent applications set forth in Annexes I and II to this Agreement to LANXESS. LANXESS hereby accepts the transfer of the said rights.
2. The Parties hereto recognize that certain rights to the patents and patent applications set forth in Annexes I and II to this Agreement might not be recorded in the name of BAG, but might have been, for whatever reason, recorded in the name of BMS and/or BCH. The Parties hereto therefore agree as follows with respect to said rights:

**BEST AVAILABLE COPY**


Pursuant to § 1.1 of the *Überleitungsvereinbarung für Gewerbliche Schutzrechte* (Annex C.2.3.1 of the Agreement of 10 September 2004), BMS and BCH hereby transfer, effective as of January 31, 2005, all their rights in the patents and patent applications set forth in Annexes I and II to this Agreement to LANXESS. LANXESS hereby accepts the transfer of the said rights.

3. BAG, BMS and/or BCH, as the case might be, and LANXESS hereby agree to the registration of the assignment with the competent patent offices and other authorities. BAG, BMS and/or BCH furthermore agree to undertake any actions reasonably required by LANXESS to execute the transfer and registration to LANXESS or to a third party to be named in writing by LANXESS.
4. Any prior transfer and/or registration of any of the aforementioned rights by BAG, BMS and/or BCH to LANXESS shall remain unaffected hereby.
5. The obligation of BAG under the *Überleitungsvereinbarung für Gewerbliche Schutzrechte* (Annex C.2.3.1 of the Agreement of 10 September 2004) to transfer rights not specifically set forth in registration in Annexes I and II remains unaffected hereby.
6. To the extent a provision or section of this Agreement is invalid, unenforceable or contains a gap, whether in whole or in part, the remaining provisions or sections of this Agreement shall remain unaffected thereby. The provision or section which is invalid, unenforceable or contains a gap shall be deemed to be replaced by a provision which has the closest result that the contracting Parties were attempting to achieve by the invalid or unenforceable provision.
7. This Agreement is governed by the laws of the Federal Republic of Germany excluding its rules on conflicts of laws.
8. For all disputes arising out of or in connection with this Agreement and related agreements, including any dispute arising regarding the validity of this Agreement, the Parties hereto submit to the jurisdiction of the competent courts in Cologne, Germany.

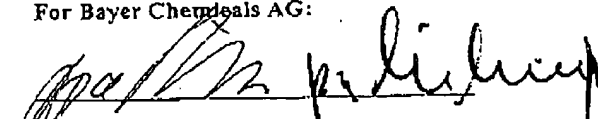
For Bayer AG:

  
Name: Dr. A. Bader Dr. R.-R. Jesse  
-Authorized Signatories-  
Place/Date: Leverkusen, July 06, 2005

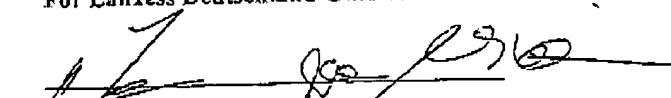
For Bayer Material Science AG:

  
Name: Dr. M. Feldhues Dr. M. Klimiuk  
-Authorized Signatories-  
Place/Date: Leverkusen, July 06, 2005

For Bayer Chemicals AG:

  
Name: J. Strauss Dr. L. Steiling  
-Authorized Signatories-  
Place/Date: Leverkusen, July 06, 2005

For Lanxess Deutschland GmbH:

  
Name: Dr. M. Zobel Dr. B. Wichmann  
-Authorized Signatories-  
Place/Date: Leverkusen, July 06, 2005

Assignment to Lanxess  
Annex I

		LEA 36143-US-NP	14.08.2003	641199
LEA 36146	ANM-KATIONER-ACRYLESTER-SULFON	LEA 36146-CN-NP	08.07.2003	3145835
		LEA 36146-US-NP	08.07.2002	191386
		LEA 36146-WO-PCT	08.07.2003	PCT/03/21122
LEA 36181	DIPHOSPHORVERBINDUNGEN	LEA 36181-CN-NP	21.08.2003	3158087
		LEA 36181-EP-EPA	11.08.2003	03018221.8
		LEA 36181-IN-NP	14.08.2003	998-2003
		LEA 36181-JP-NP	20.08.2003	208112-2003
		LEA 36181-US-NP	19.08.2003	643552
LEA 36184	ENANTIOMERENTRENNUNG VON 3-AM	LEA 36184-CN-NP	22.10.2003	200310102878
		LEA 36184-DE-NP	22.10.2002	10249339.1
		LEA 36184-EP-EPA	09.10.2003	03022897.7
		LEA 36184-HK-NP	22.10.2003	4105854
		LEA 36184-IN-NP	03.10.2003	1040-2003
		LEA 36184-JP-NP	20.10.2003	359355-2003
		LEA 36184-KR-NP	21.10.2003	10-2003-73259
		LEA 36184-US-NP	21.10.2003	690260
LEA 36206	DULOXETIN/BIOTRANSFORMATION	LEA 36206-CN-NP	28.09.2003	3160307
		LEA 36206-EP-EPA	13.09.2003	03020847.4
		LEA 36206-IN-NP	08.09.2003	922-2003
		LEA 36206-JP-NP	26.09.2003	335690-2003
		LEA 36206-US-NP	24.09.2003	669424
LEA 36207	SUBSTITUIERTE THIAZINE ALS MATERI	LEA 36207-AU-PCT	14.07.2003	2003250049
		LEA 36207-DE-NP	29.07.2002	10234425.6
		LEA 36207-EP-EPA	14.07.2003	03766161.8
		LEA 36207-EP-EPT	14.07.2003	03766161.8
		LEA 36207-NO-NP	14.07.2003	20051028
		LEA 36207-PL-PCT	14.07.2003	P-374872
		LEA 36207-US-NP	14.07.2003	522865
		LEA 36207-US-PCT	14.07.2003	522865
		LEA 36207-WO-PCT	14.07.2003	PCT/03/07587
LEA 36214	BINDEMITTELFREIE HOHLKUGELN	LEA 36214-DE-NP	17.03.2003	10311550.1
		LEA 36214-WO-PCT	04.03.2004	PCT/04/002178
LEA 36228	IMIDAZOLAZOMETALLKOMPLEXE/OPT.	LEA 36228-CN-PCT	15.07.2003	03822531.X
		LEA 36228-EP-EPA	15.07.2003	03766171.7
		LEA 36228-IN-NP	15.07.2003	314/DELNP/2005
		LEA 36228-JP-NP	15.07.2003	2004-525200
		LEA 36228-TW-NP	25.07.2003	92-120309
		LEA 36228-US-NP	15.07.2003	522476
		LEA 36228-WO-PCT	15.07.2003	PCT/03/07641
LEA 36243	MISCHUNG AUS BIT UND BHF	LEA 36243-DE-NP	08.11.2002	10251918.1
		LEA 36243-EP-EPA	25.10.2003	03775233.4
		LEA 36243-WO-PCT	25.10.2003	PCT/03/11885
LEA 36250	MICRONUTRIENTS/IDS	LEA 36250-AR-NP	14.10.2003	30103732
		LEA 36250-AU-NP	26.09.2003	2003252201
		LEA 36250-CA-NP	10.10.2003	2444830
		LEA 36250-CN-NP	15.10.2003	200310102834
		LEA 36250-DE-NP	15.10.2002	10248022.2
		LEA 36250-EP-EPA	02.10.2003	03022295.4
		LEA 36250-IL-NP	13.10.2003	158375
		LEA 36250-MX-NP	14.10.2003	2003/009414
		LEA 36250-NZ-NP	10.10.2003	528826
		LEA 36250-PL-NP	11.04.2003	359655
		LEA 36250-TH-NP	22.09.2003	85373
		LEA 36250-US-NP	14.10.2003	684925
		LEA 36250-ZA-NP	13.10.2003	2003-7945
LEA 36267	METATHESE	LEA 36267-EP-EPA	22.07.2003	03016465.1
		LEA 36267-US-NP	28.07.2003	628707
LEA 36273	KLEINE MD-IONENAUSTAUSCHER	LEA 36273-CN-NP	02.08.2003	PCT/EP2003/008600
		LEA 36273-CN-PCT	02.08.2003	03824381.X